

March 17, 2009

To: Senate Judiciary Committee

From: Maria Martin

Re: HB 228 – “An Act Preserving and Clarifying Laws Relating to the Right of Self-defense and the Right to Bear Arms”

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Good morning, Mr. Chairman and Members of the Senate Judiciary Committee. For the record, my name is Maria Martin. I am the Yellowstone Prevention Coordinator of Domestic and Sexual Violence Services of Carbon County, Vice Chairman of the Billings Area Family Violence Task Force, and a member of the Montana Coalition Against Domestic and Sexual Violence. These organizations all work to educate our communities, prevent violence, and serve victims of domestic and sexual violence. I rise in opposition to House Bill 228 sponsored by Representative Kerns.

Please consider the serious ramifications this has for prosecution of Domestic Violence cases. If this bill is enacted, the accused can plead the gun was used in self-defense, the burden of proof goes to the Prosecuting Attorney, it will be nearly impossible to prove that the gun was not used in self-defense, the case will be lost, and the government using our tax dollars will be required to pay the Defense Attorney's expenses. Prosecuting Attorney's will try a Domestic Violence case with a gun involved only once with HB 228 in place. When they know they cannot successfully prosecute and are left with the legal expenses, they will no longer prosecute Domestic Violence cases that involve guns. These cases are the most dangerous as this continuum leads to homicide.

I personally was assaulted with a gun, knife, physical violence, coercion, and threats to kill my children with the gun. After three and one half years of legal proceedings, the defendant (an attorney) was sentenced to 61 years in prison. 20 years of this sentence was given because of the use of a gun during the assault. If HB 228 had been in place at that time, I imagine my three children and I would be another homicide number for our state's Domestic Violence Statistics. We cannot allow this bill to pass. HB 228 will take the State of Montana back to an antiquated level regarding service to victims of Domestic Violence.

The Yellowstone County Prosecuting Attorney and the Billings Police Chief both oppose this bill. Please support their opposition of this bill.

I urge you to oppose HB 228. Thank you for your time and attention. If you have questions, I am available to provide further information.

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